

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

K. BAURLE,

Plaintiff,

v.

**1:18-CV-62
(FJS)**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES

OF COUNSEL

K. BAURLE

92 Forest Street

P.O. Box 91

Gloversville, New York 12078

Plaintiff *pro se*

**SOCIAL SECURITY ADMINISTRATION
OFFICE OF REGIONAL GENERAL
COUNSEL**

Region II

26 Federal Plaza, Room 3904

New York, New York 10278

Attorneys for Defendant

CATHARINE L. ZURBRUGG, ESQ.

SCULLIN, Senior Judge

ORDER

Plaintiff originally filed her complaint in this action in the United States District Court for the Southern District of New York. *See* Dkt. No. 2. The action was transferred to this District. *See* Dkt. No. 4. Plaintiff, thereafter, filed an amended complaint. *See* Dkt. No. 11. By Order dated March 6, 2018, Magistrate Judge Stewart struck the amended complaint and directed the Clerk of the Court to open a new civil action and file the amended complaint as the operative pleading in that case. *See* Dkt. No. 13. In compliance with this Order, the Clerk of the Court opened civil

action 18-CV-283, which was randomly assigned to Senior District Judge Kahn and Magistrate Judge Baxter and filed Plaintiff's purported amended complaint in this action as the complaint in that action. *See Baurle v. Cooper*, 1:18-CV-282 (LEK/ATB).

On June 20, 2018, Defendant filed and served the Social Security Administrative Record. *See* Dkt. Nos. 15-16.

On October 15, 2018, Magistrate Judge Stewart issued a Text Order, noting that, although Plaintiff was to file her Social Security Brief by August 6, 2018, she had not done so. *See* Dkt. No. 17. Therefore, Magistrate Judge Stewart directed her either to file her brief or advise the Court as to the status of such filing by November 29, 2018. *See id.*

On February 26, 2019, Magistrate Judge Stewart issued another Text Order, noting that, although Plaintiff was to file her Social Security Brief by November 29, 2018, she had not done so. *See* Dkt. No. 18. Therefore, he directed Plaintiff to file her brief or advise the Court as to the status of such filing by March 19, 2019. *See id.*

On March 11, 2019, Magistrate Judge Stewart's February 26, 2019 Text Order was returned to the Court as undeliverable. *See* Dkt. No. 19.

On April 16, 2019, Magistrate Judge Stewart issued a third Text Order, noting that Plaintiff had failed to file a brief and had been given several extensions of time in which to do so. *See* Dkt. No. 20. Nonetheless, in light of Plaintiff's *pro se* status, Magistrate Judge Stewart provided her with one more opportunity to file a brief on or before May 16, 2019. *See id.* He also directed Plaintiff to provide the Court with a proper mailing address and warned Plaintiff that her failure to file a brief and/or provide a proper mailing address might result in dismissal of this action for failure to prosecute, failure to provide a proper mailing address, and failure to follow Court orders.

See id. Magistrate Judge Stewart's April 16, 2019 Text Order was returned to the Court as undeliverable. *See* Dkt. No. 21.

On June 14, 2019, this Court advised Plaintiff, by telephone, that she must file a change of address with the Court immediately. *See* Dkt. No. 22. Additionally, the Court advised Plaintiff that it would provide her with one last opportunity to file her Social Security brief and that she must file such brief by July 19, 2019. *See id.* Finally, the Court advised Plaintiff that her failure to timely file her brief would result in the dismissal of this case without further Order of the Court. *See id.*

On July 22, 2019, Plaintiff filed a Notice of Change of Address. *See* Dkt. No. 23. She also filed what purported to be her brief. *See* Dkt. No. 24. However, the brief that Plaintiff filed has no relevance to this case. Instead, the brief appears to be related to *Baurle v. Cooper*, 18-CV-283 (LEK/ATB).¹

After reviewing the entire file in this case, the Court hereby

ORDERS that, in light of Plaintiff's failure to file her Social Security brief, despite being provided with numerous opportunities to do so, this action is **DISMISSED for failure to prosecute**

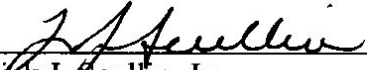
¹ In *Baurle v. Cooper*, 18-CV-283, Magistrate Judge Baxter issued an Order and Report-Recommendation, in which, among other things, he recommended that the Court dismiss the entire complaint without leave to amend as frivolous and for failure to state a claim as to Plaintiffs Kelly Baurle, Stephanie Baurle, Ryan Kilts and Mark Booth and dismiss the complaint without prejudice as to the minor Plaintiffs. *See Baurle v. Cooper*, 18-CV-283, Dkt. No. 11. Plaintiffs Kelly Baurle and Mark Booth filed objections to those recommendations. *See id.*, Dkt. No. 12. In an Order dated May 10, 2019, the Court (Kahn, S.J.) approved and adopted Magistrate Judge Baxter's April 18, 2018 Report-Recommendation in its entirety. *See id.*, Dkt. No. 13. The Court also ordered that, if Plaintiffs failed to file a signed amended complaint within thirty days of the filing date of its Order, the Clerk would enter judgment dismissing the action without prejudice. *See id.* Plaintiffs did not file an amended complaint within the required time-frame; and, therefore, the Clerk of the Court entered Judgment accordingly. *See id.*, Dkt. No. 14. The Court's Judgment was returned as undeliverable, *see id.*, Dkt. No. 15. However, after Plaintiffs Kelly Baurle and Mark Booth filed Notices of Change of Address, the Court reserved the judgment. *See id.*, Dkt. Nos. 16-17.

and for failure to comply with the Court's Orders; and the Court further

ORDERS that the Clerk of the Court shall enter Judgment in favor of Defendant and against Plaintiff and close this case.

IT IS SO ORDERED.

Dated: September 3, 2019
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge